

STATE OF FLORIDA

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Commissioners:
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Public Service Commission

August 4, 1998

BY AIR BORNE EXPRESS

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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Re: CC Docket No. 96-128 - Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

Dear Ms. Salas:

Enclosed are an original and 12 copies of the Florida Public Service Commission's Review of the Provision of Public Interest Payphones in the above-referenced docket. Please date-stamp one copy and return to us in the enclosed self-addressed stamped envelope.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cynthia B. Miller".

Cynthia B. Miller
Senior Attorney

CBM:jmb
Enclosure

cc: Brad Ramsay, NARUC
International Transcription Services, Inc.
Parties of Record

07/12

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

RECEIVED
AUG 5 1996
FCC MAIL ROOM

In the matter of:

Implementation of the
Pay Telephone Reclassification
and Compensation Provisions of the
Telecommunications Act of 1996

CC Docket No. 96-128

Public Interest Payphones

REVIEW OF THE PROVISION OF
PUBLIC INTEREST PAYPHONES

The Florida Public Service Commission (FPSC) hereby files its report in the above-captioned request for a review of public interest payphones (PIPs), as a courtesy and in response to the guidelines set forth in FCC Order 96-388 in CC Docket No. 96-128, issued September 20, 1996.

BACKGROUND

Section 276 of the Telecommunications Act of 1996 required the FCC to "determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably." In the Report and Order FCC 96-388, the Commission defined PIPs in paragraph 282 as, "a payphone which (1) fulfills a public policy objective in health, safety, or public welfare, (2) is not provided for a location provider with an existing contract for the provision of a payphone, and (3) would not otherwise exist as a result of the operation of the competitive marketplace." The FCC directed each state to

review its rules and policies to determine whether it has provided for PIPs, to determine if it needed to establish a PIP program, and, if so, fairly and equitably fund the program by September 20, 1998.

PIP WORKSHOPS

On September 3, 1997, a request was sent to payphone providers and other interested parties requesting their input on the past, present and future of PIPs in Florida. The comments received indicated that a workshop was needed. The first of four workshops was held March 6, 1998, with representatives of the payphone industry, including private payphone companies, local exchange company payphone divisions, and FPSC staff. The participants decided that in order to evaluate whether there was a need to take any measures to ensure that PIPs would continue, a definition of PIPs was necessary. The Florida Public Interest Payphone Working Group adopted the following definition of a PIP:

A payphone must meet ALL of the following criteria to qualify as a public interest payphone:

- (1) Fulfills a public policy objective in health, safety, or public welfare;
- (2) Is not provided for a location provider with an existing contract for the provision of a payphone;
- (3) Would not otherwise exist as a result of the operation of the competitive market;
- (4) Actual or projected revenue from the phone is a minimum of \$30.00 per month and a maximum of \$90.00 per month on an annual basis. Revenue includes all coin and non-coin revenue for local, intraLATA and interLATA calls as well as any commissions or per-call compensation paid to the pay telephone provider. If a payphone serves only a seasonal

public need, only revenues generated during that season shall be included in the calculation;

- (5) As measured along the route of ordinary pedestrian travel, there is no other payphone located within 500 feet. The payphone must be a single payphone at the location address such that payphones which are part of a bank of phones will not be considered public interest phones;
- (6) The public payphone is not a coinless payphone;
- (7) Unless extraordinary circumstances exist to dictate otherwise, all public interest paystations should be outside and available to the public twenty-four (24) hours per day;
- (8) In those extraordinary circumstances referenced above, the general public should have unrestricted access to the payphone. "Unrestricted access" means the payphone should be physically and geographically accessible to the general public during the operating hours of the facility. Thus, if the payphone is located inside a building, for example, the general public should be able to enter the building from the street to use the payphone;
- (9) The station agent on whose property the phone is located will receive no compensation from any source whatsoever related to the placement of the payphone or revenues generated from the payphone;
- (10) Requests for public interest phones will not be accepted from applicants who have a signed contract with a payphone provider. This scenario would apply to Federal, State, or Local government agencies that have a signed contract with a payphone provider as well as individual citizens. Those agencies or individuals with signed contracts should have any payphone they deem as public interest payphones included in their payphone contracts;
- (11) Public interest payphones which experience three or more instances of vandalism in one year for which extensive repairs or replacement of parts are necessary may be removed.

COMMENTS OF WORKSHOP PARTICIPANTS

ALLTEL stated that when competition could not guarantee that PIPs would be adequately provided, the FPSC required local exchange companies to provide "...at least one coin telephone in each exchange that will be available to the public on a twenty-four (24) hour basis." [See Rule 25-4.076 (1), Florida Administrative Code] The Commission has had no requests for PIPs in ALLTEL's territory. ALLTEL believes the marketplace will be adequate to ensure that PIPs continue to exist and that the maximum the FPSC should do would be to adopt the workshop's definition of PIPs.

AT&T concluded that Florida's policies have satisfied the current need for PIPs because no workshop participant was aware of a single unmet need. AT&T recommended that the FPSC adopt the workshop definition of PIPs for any future requests.

BELLSOUTH PUBLIC COMMUNICATIONS, INC. (BSPC) believes the "thriving" marketplace in Florida along with regulatory policies that encourage the placement of payphones has adequately provided for PIPs. The company has received very few requests for PIPs in Florida in the last two years. Using the PIP Working Group definition, the company has a small number of PIPs which BSPC contends does not justify a PIP program in Florida at this time. BSPC stated, however, that if conditions warrant the issue could be revisited at a later time. BSPC believes that any program must compensate payphone service providers for providing PIPs.

FLORIDA PUBLIC TELECOMMUNICATIONS ASSOCIATION (FPTA) strongly

believes that the competitive marketplace in Florida has provided for PIPs in the past and will continue to do so in the future. To ensure a truly competitive market continues in Florida, FPTA would like the FPSC to monitor the development of local ordinances regarding payphones and intervene where necessary, and eliminate any anticompetitive practices in telephone directory listings for payphone service. Although FPTA agrees that the marketplace has adequately provided for PIPs at this time, the Commission should still monitor industry developments for their impact, if any, on PIPs.

GTE SERVICE CORPORATION (GTE) has only a "handful" of PIPs that are not under any franchise or contractual agreement. GTE recommends that the FPSC allow the marketplace to work for one year. During this time, the FPSC could monitor and assess the need for PIPs and measure how adequately that need is met by the payphone industry.

SPRINT-FLORIDA, INC. (SPRINT) does not perceive a need for the FPSC to take additional measures. Sprint believes that PIP needs will be met by the competitive marketplace in the majority of cases.

FPSC STAFF does not believe this Commission needs to take any action at this time to ensure that PIPs will continue to exist with the implementation of Section 276 of the Telecommunications Act. Since 1985, both private and local exchange providers have competed in the Florida payphone market. Staff can only recall two instances in the last 10 years when the FPSC was contacted

concerning the placement of public interest payphones. In both cases, companies were willing to provide the service. As of March 31, 1998, there were 1,042 payphone providers in Florida with 111,891 operating payphones. Staff does not believe a PIP program is needed at this time. The impact of the implementation of Section 276 of the Telecommunications Act of 1996 has not yet been realized. On October 22, 1997, the FPSC issued Order No. PSC-97-1312-FOF-TL, implementing Section 276 of the Act and related FCC orders. Accordingly, staff recommends that the FPSC continue to monitor the need for a fully funded PIP program in Florida.

CONCLUSION

After reviewing the record of this matter, the Florida Public Service Commission does not believe Florida needs to develop a PIP program at this time. There is no evidence to suggest that such a program is necessary to ensure that the public has appropriate access to public payphones. If in the future evidence is presented to indicate a need, this issue will be readdressed.

Respectfully submitted,


JULIA L. JOHNSON
Chairman

FLORIDA PUBLIC SERVICE COMMISSION
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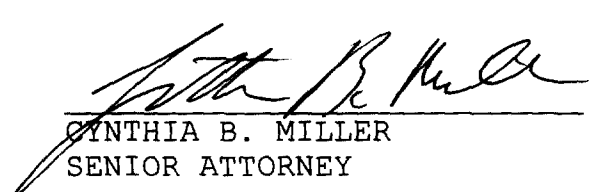
DATED: JULY 21, 1998

**Before the
Federal Communications Commission
Washington, D. C. 20554**

In the Matter of:)	
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Implementation of the Pay)	CC Docket No. 96-128
Telephone Reclassification and)	
Compensation Provisions of the)	
Telecommunications Act of 1996)	
)	
Public Interest Payphones)	
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Report of the Florida Public Service Commission on Review of the Provision of Public Interest Payphones has been furnished to all parties of record on the attached list as furnished by the ITS, this 24th day of August, 1998.



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